

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

OUNDRA STANLEY, MALCOM  
MOULTON, CHARLES HUNTER,  
BETTY COMPTON, MARCIA BROWN,  
TANSLEY ANN CLARKSTON, individually  
and on behalf of all others similarly situated,

Plaintiffs,

v.

Case No. 04-74654

UNITED STATES STEEL COMPANY,

HONORABLE AVERN COHN

Defendant.

**ORDER DENYING RIVER ROUGE SCHOOL DISTRICT'S MOTION TO ALTER OR  
AMEND THE ORDER ON THE DISTRIBUTION OF CY PRES FUNDS**

I.

This is an environmental air pollution class action case brought by residents of the cities of Ecorse and River Rouge. The case settled for \$4.45 million. In anticipation that the settlement fund would not be exhausted after payment to all valid claimants, the settlement provided that any cy pres funds be distributed to the River Rouge and Ecorse school districts. On January 7, 2010 the Court entered an Order on the Distribution of Cy Pres Funds (Distribution Order) which provides for the distribution of the cy pres funds to the school districts.

Before the Court is the River Rouge Schools District's Motion to Alter or Amend the Distribution Order. For the reasons that follow, the motion is DENIED.

II.

The Distribution Order provides that the cy pres funds be deposited with the Community Foundation for Southeast Michigan who shall distribute them pursuant to grant proposals made by the school districts “for academic or extra-curricular programs or services that cannot currently be funded through other resources available to the Schools, and which would benefit the students of Ecorse and River Rouge.” Distribution Order at ¶ 3. The Distribution Order specifically provides that “[g]rants from these settlement funds are not to be for general operating support, debt service or previously incurred deficits of the Schools.” *Id.*

River Rouge School District asks that its share of the cy pres funds be distributed to it directly and “without restriction,” noting that it is operating under a Deficit Elimination Plan approved by the Michigan Department of Education and amended its budget to account for receipt of the cy pres funds.

III.

The Court has discretion in shaping the distribution of any cy pres funds from a class action settlement. See Lessard v. City of Allen Park, 470 F. Supp. 2d 781, 782 (E.D. Mich. 2007). The cy pres funds allocated to the River Rouge school district represent a wind fall to the River Rouge schools. The Court carefully considered the best use of such funds, fully recognizing the likelihood that River Rouge School District was in a difficult financial condition. It is the Court’s view that such funds can best be used to enable the school district to continue programs that would otherwise have to be eliminated. The motion papers of the school district do not persuade it otherwise.

The Court is constrained to observe that a letter from the school board would

have sufficed to advise the Court of its desires - even though the Court would not have changed its view as to the best use of the funds.

SO ORDERED.

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: January 20, 2010

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, January 20, 2010, by electronic and/or ordinary mail.

s/ Julie Owens  
Case Manager, (313) 234-5160